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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,401	04/11/2001	Roman S. Ferber	HOME 0459 PUS	3432

7590 05/07/2002

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EXAMINER

KOO, BENJAMIN KIM

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 05/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/833,401

Applicant(s)

ROMAN S. FERBER ET AL. *CR*

Examiner

Benjamin Koo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 October 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,5,7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7, 10, and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Stern et al. '759 in view of Leung '243. Stern shows an air bubble massage mat system comprising: an air pump/controller (22), a mat (20), a hose (24), switches (column 4, lines 21-24), and a heating element (120), but does not show the remote control. Leung shows the remote control and associated mounting means in a similar device. It would be obvious to use a remote control because remote controls are old and well known in the art to provide convenience and ease of use. Limitations regarding various control parameters and programs are considered obvious design choices, well within the knowledge of a skilled artisan to suit various needs and applications as deemed fit by the user.

3. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stern and Leung as applied to claim 1 above, and further in view of Voorlas '227. Stern and Leung show all the structural and functional limitations of the invention except for the flexible material. Voorlas shows a similar device using a flexible mat. It would have been obvious to use a flexible mats because both mats are considered obvious art-

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recognized alternative massage bubble mat alternatives, known to one of ordinary skill, absent any unexpected results.

4. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stern and Leung as applied to claim 1 above, and further in view of Gonzalez '061. Stern and Leung show all the structural and functional limitations of the invention except for the suction cups. Gonzalez shows suction cups (76) in a bath mat. It would be obvious to use suction cups in Stern because the use of suction cups is old and well-known in the art to provide convenient removable attachment means to facilitate stability and minimize slippage.

5. Claims 14-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voorlas in view of Rinaldo '002. Voorlas shows a air bubble massage mate comprising: a flexible vinyl member having two layers (11) secured/bonded together forming passageways, a receptacle (19), and holes (21) allowing inflation, but does not show the blocks/foam members. Rinaldo shows an inner foam layer (10) in a bath mat. It would have been obvious to incorporate foam in Voorlas as demonstrated by Rinaldo to provide additional cushioning and comfort for the user.

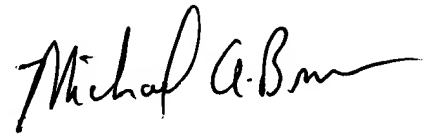
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin Koo whose telephone number is 703-308-2657. The examiner can normally be reached on M, W-F; 9:30-8.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-0758 for regular communications and 703-746-4892 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

bk  
May 6, 2002

A handwritten signature in black ink, reading "Michael A. Brown". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Michael A. Brown  
Primary Examiner